

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

VIVIAN BERT, et al.,

Plaintiffs,

vs.

AK STEEL CORPORATION,

Defendant.

CASE NO.
C-1-02-467

Deposition of: PHYLLIS SHORT

Taken: By the Plaintiffs
Pursuant to Notice

Date: February 16, 2005

Time: Commencing at 11:35 a.m.

Place: Taft, Stettinius &
Hollister, LLP
425 Walnut Street
Suite 1800
Cincinnati, Ohio 45202

Before: Karen Volk, RPR
Notary Public - State of Ohio

ORIGINAL

1 APPEARANCES:

2 On behalf of the plaintiffs:

3 Robert F. Childs, Jr., Esq. (via telephone)
4 of
5 Wiggins, Childs, Quinn & Pantazis
6 301 19th Street
7 North Kress Building
8 Birmingham, Alabama 35203

9 and
10 David D. Kammer, Esq.
11 of
12 Tobias, Kraus & Torchia
13 911 Mercantile Library Building
14 414 Walnut Street
15 Cincinnati, Ohio 45202

16 On behalf of the defendant:

17 Gregory Parker Rogers, Esq.
18 of
19 Taft, Stettinius & Hollister, LLP
20 425 Walnut Street
21 Suite 1800
22 Cincinnati, Ohio 45202

23 and

24 Stephanie Bisselberg, Esq.
25 of
AK Steel Corporation
703 Curtis Street
Middletown, Ohio 45043

Also Present:

Susan R. Lester

- - -

1 MR. ROGERS: Yes, she is.

2 Q. All right. If you would, Ms. Short, would
3 you tell us what has been the general -- first of
4 all, has there been -- has the same hiring procedure
5 been in place at Middletown from January of 2000 to
6 the present? I'm talking about production laborer
7 positions.

8 A. Okay, I'm sorry, repeat the question. The
9 same what?

10 Q. Has the same hiring procedure been in
11 place from January of 2000 to the present for the
12 hiring of production laborer employees at the
13 Middletown Works?

14 A. Yes.

15 Q. Can you tell me generally, from start to
16 finish, what that process is?

17 A. Yes. If someone is interested in a
18 position at Middletown Works, they would be told to
19 apply at the Bureau of Employment Services and all
20 applicants would have to go through the bureau.

21 We would give our applications to the
22 bureau and the candidates could go there, request a
23 copy -- request an application for AK Steel.

24 The bureau, in turn, would do a
25 preliminary screening for us and then they would send

1 the applications that met our screening to an
2 employment person within Middletown Works. I had one
3 person in charge of employment for hourly hiring and
4 one for professional hiring at Middletown.

5 Q. Who was the one that handled hourly?

6 A. It's going to depend upon the time frame.

7 Q. Give me who it was from January of 2000.
8 If it's varied, give me those different individuals.

9 A. Probably, and this is my best
10 recollection, January of 2000 would have been either
11 Tracy White or Jessica Hicks. And I'm not sure of
12 exactly the time frame there.

13 Q. Did that change in the period from January
14 of 2000 to the present?

15 A. I believe that Tracy went to another job
16 and then it would have been Jessica.

17 Q. Okay. So either Tracy White or Jessica
18 Hicks would have handled the employment of hourly
19 employees at the Middletown Works from January of
20 2000 to the present?

21 A. Yes, to the best of my recollection on the
22 date.

23 Q. So the applications, when they came in
24 from the Bureau of Employment Services, would have
25 gone to either Tracy White or Jessica Hicks,

1 depending on who was in place at that time?

2 A. Yes.

3 Q. Okay. What's the race of Tracy White?

4 A. Caucasian.

5 Q. And what about Jessica Hicks?

6 A. Caucasian.

7 Q. All right. Once the applications came to
8 either Ms. White or Ms. Hicks, what happened next in
9 this general process?

10 A. Okay. They would have done a screening of
11 the applications. They also would have -- they would
12 have taken the tear-off sheets from the
13 application -- and we had a separate file for the
14 tear-off sheets. After they would remove the
15 tear-off sheets they, in turn, would Xerox the
16 application and they would send them to me for
17 review.

18 Q. What did you do once you got them?

19 A. I would be reviewing the applications for
20 various criteria, such as it was very important for
21 us to have candidates with at least two years of
22 manufacturing experience, and I would be looking for
23 that as far as the candidates are concerned. I would
24 be looking at their applications for whether or not
25 they identified a conviction. They had to be high

1 school graduates or have a GED.

2 Q. Anything else?

3 A. Those are the particular areas that I
4 would be looking for.

5 Q. Okay. Those criteria, those three would
6 be -- have been the same from January of 2000 to the
7 present?

8 A. Yes.

9 Q. All right. Once you screened them, what
10 happened next?

11 A. After I had screened them, then if I had
12 pulled out an applicant for any reason, I would have
13 notified Jessica and/or Tracy that I had pulled out
14 an applicant or I would have written a note and
15 attached it to a copy of the application. Then I
16 would have sent it back to them.

17 Q. Okay. So anybody that you sent back to
18 them was eliminated. What happened -- what happened
19 next in the process after your screening?

20 A. Then they would have been scheduled for a
21 test.

22 Q. Okay. Who would have done that?

23 A. It would have been either Tracy or
24 Jessica.

25 Q. What process did they use to schedule

1 those tests?

2 A. They would have actually made the
3 telephone call to the candidate and would have
4 scheduled them. We usually test at least one day
5 during the week, one night during the week and on
6 Saturdays.

7 Q. Would they keep records of those
8 individuals that they were able to contact if they
9 indicated they were interested in testing or those
10 they couldn't reach, how was that done?

11 A. It's my understanding that they did.

12 Q. Have you seen any such records?

13 A. I'm trying to remember if I've seen them
14 or not. I believe I have because they would write
15 notations on them that they received a busy signal or
16 they left a message, something of that type.

17 Q. What were the procedures in place from
18 January of 2000 to follow up on those where they got
19 a busy signal?

20 A. They would try to call them again. But,
21 bear in mind, we were doing a lot of hiring and I had
22 one person who was making these contacts.

23 Q. They weren't required to continue to try
24 to reach the person until they were able to do so?

25 A. They weren't required to but they would

1 make every effort.

2 Q. If they were not able to locate them or to
3 contact them because of a busy signal, were they
4 required to send out a letter to the individuals
5 informing them about the test?

6 A. No, sir.

7 Q. Why not?

8 A. Because of the volume of candidates that
9 we had going through during times. It was impossible
10 for us to have one person to be doing the steps that
11 were necessary as far as hiring to send out letters.
12 So we did not do that.

13 Q. Let me ask you this. When -- going back a
14 step, just following up, Tracy and/or Jessica would
15 have entered the information off the tear-off sheets
16 into a file, is that correct? Is that an electronic
17 file?

18 A. No, sir, I didn't say that.

19 Q. Tell me again exactly what they did.

20 A. I said they would remove the tear-off
21 sheet from the application and put it into a file.

22 Q. What happened to that file?

23 A. It's my understanding that it became part
24 of their applicant flow.

25 Q. Who put it into the applicant flow?

1 A. Right. There would have only been one.

2 Q. Just for the record, can you identify a
3 little bit more concisely the period of time Tracy
4 White would have been there and the period of time
5 Jessica Hicks would have been there?

6 A. I would say probably just for the
7 record -- well, Jessica would have been there in the,
8 oh, let's say at least the 2001 to 2004 time frame.

9 Q. Tracy would have been there from January
10 of 2000 to 2001?

11 A. Yeah. I can't really remember that. I
12 don't want to stipulate that that's when she was
13 there.

14 She did do our hiring effort and then she
15 went over to our corporate office but I don't
16 remember the exact time frame.

17 Q. I understand. Just try to give us some
18 judgment where you think, using January 2000 to the
19 present, that probably Tracy was there from January
20 of 2000 through some point in time in 2001, and then
21 Jessica from 2001 to the present?

22 A. That's a good estimate.

23 Q. Do you know when in 2001 Tracy would have
24 gone over to corporate?

25 A. No.

1 A. It's my understanding, yes.

2 Q. Is that based on a conversation you had
3 with them?

4 A. Yes.

5 Q. Your conversation with them was, did you
6 indicate in each and every instance where you were
7 told they weren't interested that this was, in fact,
8 the case?

9 A. No, sir, I'm not going to say that. I'm
10 going to say that it's my understanding if they had a
11 candidate that they contacted who was not interested,
12 they would make a notation on the application.

13 Q. I guess my question then would be,
14 Phyllis -- I'm sorry, Ms. Short, is that based on a
15 direct conversation which you had with them in which
16 they told you that they had done so?

17 A. I did have a direct conversation with
18 them, yes.

19 Q. With both Tracy and Jessica?

20 A. Yes.

21 Q. Do you know -- so is the record that you
22 have for the Middletown Works regarding applicant
23 flow, to the extent it shows individuals who declined
24 to take the test, would be complete to your
25 knowledge?

1 A. To the best of my knowledge, yes.

2 Q. But in speaking of that, you don't know
3 whether some individuals may have slipped through the
4 cracks or whether others were for statements made
5 that weren't completely accurate, do you?

6 A. No, I don't know.

7 Q. What about individuals who they didn't or
8 could never contact, how is that noted on these
9 records?

10 A. How is it noted on what records?

11 Q. These applicant flow lists and the
12 comments where you say they noted somebody declined
13 the test, would they also similarly record, could
14 never contact the applicant?

15 MR. ROGERS: Bob, I object. Earlier she
16 said that they wrote that across the top of the
17 application if they called somebody and they
18 declined to show up for the test.

19 MR. CHILDS: Okay. I'm sorry. I didn't
20 hear that.

21 MR. ROGERS: I think you're conflating the
22 two.

23 Q. Do you know if Tracy and Jessica indicated
24 on the applicant flow information the fact that the
25 individual had declined to take the test, too, or was

1 it just on the application, Ms. Short?

2 A. I don't know if it was on both or not.

3 Q. You know they indicated on the
4 application --

5 A. Yes.

6 Q. -- is that correct?

7 A. Yes.

8 Q. Okay. Now, what about those that they
9 could never contact, was that recorded on any --
10 either the application or the applicant flow log?

11 A. I can remember seeing notations where
12 they, you know, would have a date and a time that
13 they tried to call and there was no answer or they
14 left a message. I'm not sure what document that was
15 written on, though.

16 Q. Do you know if that would have been
17 recorded for each and every attempt that they made to
18 contact these individuals?

19 A. I don't know.

20 Q. Do you know if they were limited to the
21 number of times that they would try to call?

22 A. No, they weren't limited to the number of
23 times. Again, I can emphasize, I had one person
24 doing hiring.

25 Q. You don't know, yourself, how many times

1 they would have attempted to call applicants to let
2 them know about the tests?

3 A. No, sir, I don't know.

4 Q. You don't know what effort they used
5 regarding the white candidates to the black
6 candidates, do you?

7 A. We would have been trying to contact every
8 candidate regardless of race.

9 Q. But you have not gone back and looked at
10 either your applications nor the applicant flow log
11 to determine if there were fewer African American
12 candidates that were contacted than whites, correct?

13 A. No, sir, I have not done that.

14 Q. So you don't know whether their telephone
15 efforts had an impact on African American applicants
16 versus white applicants or not, do you?

17 A. We would have been trying to contact every
18 applicant unless I had taken the application out for
19 whatever reason.

20 Q. I understand that. But you have not
21 conducted an analysis or looked at those to see if
22 their efforts had an impact on white versus black
23 applicants?

24 A. No, sir, I have not done an analysis on
25 that.

1 Q. Or looked into that at all?

2 A. I have not done an analysis on that; no, I
3 have not.

4 Q. And there's -- just to be sure about this,
5 there is no notation that you're aware of in the
6 files that would indicate whether a letter was ever
7 sent to these individuals that they were having
8 trouble contacting by phone?

9 A. We would not have sent a letter, no, sir.

10 Q. And have you ever instructed Ms. White or
11 Ms. Hicks as to the number of times they should
12 attempt to call an applicant?

13 A. No, sir.

14 Q. Any written instructions to them in regard
15 to how many times they should attempt to call an
16 applicant?

17 A. No, sir.

18 Q. Do you have any judgment as to whether
19 they would call once or more than once?

20 A. My judgment would be that they would call
21 more than once.

22 Q. What is that judgment based on?

23 A. Because we were trying as much as we
24 could -- with just one person doing the hiring, we
25 were trying to get as many candidates into our

1 process as possible. So I am sure that they would
2 have tried more than once to call a candidate.

3 Q. But you do not know that to be a fact?

4 A. No, sir, I do not.

5 Q. Okay. All right. Once the employees are
6 contacted or the applicants are contacted about the
7 test, what's the next step?

8 A. Well, of course they would be tested
9 and --

10 Q. Where would that take place?

11 A. Our testing actually took place at the
12 Middletown Works. We have what we call an employment
13 building and the testing would take place there.

14 Q. Who would do -- who would administer the
15 test?

16 A. We would have a temporary employee from
17 one of our temporary agencies who would be instructed
18 as to how they should administer the test.

19 Q. Tell me what you mean, a temporary
20 employee from the temporary agency. What are you
21 saying?

22 A. It was not an AK employee. We actually --

23 Q. Someone would have been hired who had some
24 skills in test administration?

25 A. We would have had someone who would

1 actually administer the test at night and on
2 Saturdays because the hiring professionals were
3 spending their time trying to do the other things
4 that needed to be done.

5 Q. Who would have hired this individual?

6 A. It would have been authorized through me.

7 Q. Would Ms. Hicks or Ms. White have hired
8 the individuals?

9 A. Well, okay, I don't think "hired" is the
10 correct terminology. I would have authorized a
11 temporary employee to administer the test.

12 Q. Who would have picked out who that
13 temporary employee would be?

14 A. Me.

15 Q. You?

16 A. Yes.

17 Q. You would have?

18 A. Yes.

19 Q. Do you know the race of the individual who
20 administered those tests from January of 2000 to the
21 present?

22 A. The person I remember was a Caucasian
23 male.

24 Q. What individual -- I assume that test was
25 administered on a number of occasions between January

1 of 2000 and the present, correct?

2 A. Yes, it was.

3 Q. Same individual on each of those occasions
4 to your knowledge, a Caucasian male?

5 A. I'm not going to say it was the same
6 individual. It seems that we did have a couple of
7 people who administered the test.

8 Q. Okay. Do you know the race of those
9 individuals?

10 A. No. I just specifically remember the one.

11 Q. Okay. All right. So once the test was
12 administered, what happened next?

13 A. Let me say to you that the -- the
14 employment people, whether it was Jessica or whether
15 it was Tracy, would have trained the temporary
16 employee as far as the administration of the test.
17 It was a timed test, that type of thing.

18 So once the candidates were tested, then
19 the tests would have been given back to the
20 employment person and they would have been mailed to
21 Resource Associates for grading purposes.

22 Q. Resource Associates is the group that
23 designed the test --

24 A. Yes, sir.

25 Q. -- is that correct?

1 A. Yes, sir.

2 Q. They're in Knoxville, Tennessee?

3 A. Yes, sir.

4 Q. Okay. And they would grade. Is there --
5 tell me how that test -- we'll come back to that.

6 Tell me what happened next after the test
7 was graded.

8 A. Then they would send me the test results.
9 I would get a list -- I had a private fax machine.
10 They would fax the list to me. It would show the
11 people -- the names of the people alphabetically, the
12 date they were tested, and whether they qualified or
13 didn't qualify.

14 Q. Do you know what the criteria was between
15 qualified and not qualified that was used from
16 January of 2000 to the present?

17 A. I know there were cut-off scores but I
18 can't quote what they were.

19 Q. Would Teresa -- I'm sorry, Jessica or
20 Tracy have better knowledge than you in that regard
21 or would you have better knowledge?

22 A. I would have better knowledge than them.

23 Q. Is there anybody at the company who would
24 have better knowledge as to what the qualification
25 versus not qualification process is or somebody that

1 qualified after taking the test?

2 A. Yes, sir.

3 Q. What's the next step?

4 A. Then the next step would have been they
5 would have run a background screen on the candidates
6 who were -- I'm sorry, the next step would have been
7 an interview. They would actually have scheduled the
8 person in for an interview.

9 Q. Who would have done the interview?

10 A. It would have been -- let's, for
11 simplicity, say it would have been Ms. Hicks. Okay.
12 The interview would have been with Ms. Hicks. And we
13 tried to have a management member from operations
14 also in those interviews.

15 Q. When we're doing it for simplicity sake,
16 we're meaning Ms. White or Ms. Hicks, whoever would
17 have been in there at that time?

18 A. Yes, sir.

19 Q. Tell me about the interview.

20 A. The interview -- they would have been
21 conducting the interview to -- actually they would
22 take the application and they would go through the
23 application with the candidate just to verify that
24 all the information was correct.

25 They would be verifying their previous

1 experience, who they worked for, you know, verifying
2 the dates that they said they worked there, what they
3 actually did.

4 They would be verifying whether or not
5 they were a high school graduate or had a GED. They
6 would be looking at the application, of course, for
7 convictions. And we were looking at the applications
8 just to verify the facts and looking for
9 falsifications.

10 Q. Were they looking to verify any other
11 criteria other than to determine falsifications as
12 part of this interview process?

13 A. Well, we were verifying their
14 manufacturing experience. We're a heavy
15 manufacturer. And we were very interested in people
16 who had this experience.

17 Q. Okay. Were you in the room when we were
18 taking the deposition of Ms. Lester and she talked
19 about the interview process and their reviewing or
20 trying to interview the applicants to determine
21 conscientiousness and team play and all those things?

22 A. Yes, sir, I was in the room.

23 Q. Okay. Are those not things that were part
24 of the interview process at Middletown?

25 A. No, sir, they were not. We're two

1 different facilities.

2 At Middletown, in talking about the
3 manufacturing experience, we would also be looking at
4 whether or not the candidates had worked rotating
5 shifts, because we operate 24 hours a day all year
6 long. And our employees rotate on a weekly basis;
7 week of days, week 3:00 to 11:00, week of midnights.

8 We would also be talking to them about
9 their experience as far as safety was concerned,
10 whether or not they had any experience with wearing
11 safety equipment and if they did, you know, what that
12 experience was.

13 Q. Was this a structured interview process at
14 Middletown?

15 A. Explain to me what you mean by
16 "structured."

17 Q. Structured interview process where each
18 individual has the same questions which they ask to
19 each candidate or applicant.

20 A. They would have had -- they had a form
21 that they used in every interview, such things as
22 have you ever worked rotating shifts, you know, and
23 if they had they would ask, you know, when, et
24 cetera, how much manufacturing experience they had.

25 Yes, they did have a form of various areas

1 that they had identified that they would talk to the
2 candidates about.

3 Q. All right. Ms. Lester indicated that the
4 form that they used for their interview process was
5 developed by Select International.

6 Do you know if that -- did you have a
7 group that developed your interview form for
8 Middletown?

9 A. Not that I'm aware of.

10 Q. Who would have designed the form that was
11 used to conduct the interview that you did at
12 Middletown?

13 A. I don't know.

14 Q. Do you know anybody -- who, in your
15 opinion, would be most likely to know how that
16 interview process was designed and how the questions
17 were done?

18 A. I don't know.

19 Q. You don't know of anybody?

20 A. No, I don't.

21 Q. Okay. Now, it's your testimony that also
22 as part of this interview process the individuals
23 were not looking for certain attributes like problem
24 solving, whether there was a motivational fit,
25 teamwork, conscientiousness, those kind of things?

1 A. I didn't say that. I said that they were
2 looking for certain criteria. Of course we would be
3 interested in their motivation, we would be
4 interested in their decision-making process.

5 They would start as a laborer but our hope
6 would be that they would move up in the progression.
7 We have some very technical jobs.

8 Q. What questions did they use to determine
9 whether these individuals had these attributes?

10 A. Sir, I don't know. I don't have it in
11 front of me so I can't specifically say what the
12 questions would be.

13 Q. Were the individuals rated as a result of
14 this interview by Ms. Hicks or Ms. White?

15 A. There was a rating at the bottom of the
16 form that, you know, they would mark whether or not
17 to hire. And I think it was above a 3 rating that
18 they would be considered to the next step.

19 Q. They could be rated between 1 to 10?

20 A. No, I think it was 1 to 3, I believe, at
21 Middletown.

22 Q. What was the criteria that were used for
23 them to do this rating?

24 A. I can't specifically say that it was 1 to
25 3. It's been a long time since I've seen this form.

1 But I think if they were rated 3 or above, that they
2 would go to the next step in the process.

3 Q. But did Ms. Hicks or Ms. White do this
4 evaluation? Who would have done this evaluation
5 process?

6 A. They would have done that and whoever was
7 part of operations would have also completed one.

8 Q. What criteria went into these ratings?

9 A. They would be looking at their background
10 as far as manufacturing, whether or not they were
11 willing to work rotating shifts, whether or not they
12 had had experience with safety equipment, if they
13 felt safety was important, those type of things.

14 Q. And they would also get into these areas
15 of problem solving, conscientiousness, team play and
16 motivational fit, just like at the Ashland Works,
17 correct?

18 A. I'm not going to say that, no.

19 Q. Well, what did you say?

20 A. Well, I said that they would consider
21 motivation, I'm sure, as they're talking to the
22 candidates. Whether or not it was on the form that
23 they were filling out, I can't say that it was. I
24 don't think it was.

25 Q. Why do you think it might have been

1 A. Not to my recollection.

2 Q. Teamwork?

3 A. No.

4 Q. Would the evaluation process at the
5 Middletown Works that were part of the interview
6 involve subjective judgments to a certain extent?

7 A. Yes.

8 Q. And in deciding whether to rank an
9 employee from 1 to 3 or 1 to 10 and where they would
10 be ranked would also involve, to a certain degree, a
11 subjective judgment by either Ms. White or Ms. Hicks,
12 correct?

13 A. Yes. As I stated previously, I think
14 anyone who is rated a 3 or above would go to the next
15 step in the hiring procedure.

16 Q. What members of the management group from
17 operations participated in these interviews?

18 A. Well, we tried to have a department
19 manager or a section manager if they were available.

20 Q. Any African Americans that participated?

21 A. Yes.

22 Q. Do you know whom?

23 A. I can't think of their names right off the
24 top of my head.

25 Q. How many African American department

1 A. Not that I can recall right now.

2 Q. Would it be a fair statement to say that
3 the majority of times these interviews would have
4 been conducted by an all white interview group?

5 A. Yes, that would be fair.

6 Q. All right. Once the interview phase was
7 finished, what was the next step?

8 MR. ROGERS: Since you're moving on to a
9 new topic, can we break for lunch?

10 MR. CHILDS: All I wanted to do is carry
11 me through the steps, then once I did that I
12 think we're not far.

13 Q. Can you generally run through the
14 remaining steps? Then I'll be glad to break.

15 A. The next step would have been the
16 background screening. And if they successfully --
17 were successful in the background screening, then we
18 would have made them a conditional offer of
19 employment, based upon the pre-employment physical.
20 And they would have had the pre-employment physical.

21 If they satisfactorily completed that,
22 then they would have been hired and we would have put
23 them through a three day orientation.

24 Q. The physical includes, just like Ashland,
25 a drug test and a general physical?

1 A. Yes, sir.

2 Q. Who conducted those drug tests and
3 physicals?

4 A. We have our own medical facility at
5 Middletown Works.

6 Q. These would have been doctors employed by
7 AK Steel?

8 A. No, they are not. It's a contract doctor.

9 Q. Okay. All right. But they work for AK
10 Steel all the time or the majority of the time or
11 they rotate doctors in and out?

12 A. The doctor at Middletown Works is at
13 Middletown Works all the time.

14 Q. If the AK Steel doctor found that an
15 applicant failed a drug test or was physically
16 impaired, does the employee have the right to get a
17 separate drug test by his own physician or a separate
18 physical exam?

19 A. We would not have accepted a separate drug
20 test by his own physician.

21 Q. Even if done the same day as the drug test
22 done by your doctors?

23 A. That's correct.

24 Q. Okay. What about physical impairment?

25 A. We would -- I've never had that happen,

1 that anybody has requested to do that.

2 Q. All right. We'll break. That's fine.

3 (Ms. Lester left the room.)

4 (A lunch recess was taken from 12:37
5 to 1:43.)

6 Q. Ms. Short?

7 A. Yes.

8 Q. Let me follow up with some additional
9 questions, please, ma'am.

10 Would you describe for me the composition
11 of the Middletown Works of AK Steel, please, ma'am?

12 A. I'm not sure I know what you mean by
13 "composition."

14 Q. How many plants? Is it one plant? What
15 is done there? Do you have a Coke Plant? Do you
16 have annealing? What's done at Middletown?

17 A. Middletown Works is one plant. It's the
18 largest facility within AK Steel. And it is a fully
19 integrated steel plant.

20 Q. What does that mean? I'm not as
21 knowledgeable as you.

22 A. Okay. It means that we take the raw
23 materials all the way into a finished coil of steel,
24 which actually means that we have a Coke Plant, a
25 blast furnace, steel shop, hot strip mill, annealing.

1 Q. Okay. Do you know the composition -- how
2 many total employees work at each one of those
3 different areas?

4 A. We have approximately 16 departments and I
5 can't specifically say exactly how many employees are
6 within each department.

7 Q. Can you -- are employees hired in hourly
8 jobs into a particular department or are they just
9 hired at the plant in general?

10 A. They are hired into what we refer to as
11 employment reserve and then they are assigned to the
12 departments from employment reserve based upon the
13 needs of the departments.

14 Q. Is there an entry level hourly position at
15 the Middletown Works?

16 A. We call them labor positions. And you
17 could be a laborer in any department at Middletown
18 Works.

19 They actually have to bid. We're under
20 contractual agreement at Middletown and they actually
21 have to bid in order to go into a department
22 permanently.

23 Q. How long -- are they required to serve as
24 a laborer for a certain period of time before they
25 can bid into a department?

1 A. No, sir, it's by seniority. It's on a
2 seniority basis.

3 Q. So employees at Middletown will be hired
4 into what's called a laborer's position, then that
5 will be their first hourly position?

6 A. Well, they will be hired into employment
7 reserve and then, depending upon the needs within
8 Middletown Works, they'll be assigned to a job.

9 Q. In regard to the information that we've
10 been provided, is the laborer category that you're
11 providing us information on the same as this
12 employment reserve or are they two different jobs?

13 MR. ROGERS: No, it's the same thing. I
14 may have a different way of describing it than
15 Phyllis but we're describing the same thing.

16 Q. Is also -- a production employee, is that
17 also synonymous with laborer or employment reserve
18 for the Middletown Works?

19 A. Yes.

20 Q. Okay.

21 MR. KAMMER: Bob, your fax has now
22 arrived.

23 MR. CHILDS: Great. When I get ready I'll
24 put it in. You might want to make another copy
25 to give to Greg if Greg would be so kind as to

1 let us do that.

2 MR. ROGERS: I'll front you the 24 cents.

3 Q. How many total employees are there at the
4 Middletown Works holding hourly positions right now?

5 A. Right now probably around 3,000, in that
6 vicinity, 3,000, 3,200 I'm thinking. I'm not sure.

7 Q. Is that number of hourly positions lower
8 than it was in January of 2000 or higher?

9 A. It would be lower, I do believe.

10 Q. Lower. Okay. Would you know what the
11 number of hourly jobs there were at the Middletown
12 plant as of January of 2000?

13 A. Not specifically, no.

14 Q. Is there a requirement that the hourly
15 work force at the Middletown plant be maintained at a
16 certain level?

17 A. We have within the contractual agreement,
18 it's my understanding, what is called an employment
19 security number that we try to make -- but it's based
20 upon several factors such as the financial situation
21 of the company, those type of things.

22 Q. Do you know what the employment security
23 number is for Middletown?

24 A. I should but I don't off the top of my
25 head.

1 Q. Do you know if the employment security
2 number is above or below the 3,000 employees, hourly
3 employees that presently work there?

4 A. I'm just going to guess that it's above, I
5 do believe.

6 Q. Think it's above. Okay. The security
7 number is higher than the number of hourly employees
8 presently working there to your best estimate?

9 A. Yes.

10 Q. Okay. At the Middletown Works have there
11 been hiring freezes at any point in time, from
12 January 2000 to the present?

13 MR. ROGERS: Hey, Bob, before -- the base
14 force at Middletown Works currently is 3114.
15 There's between 2650 and 2750 hourly, I'm not
16 sure. I'm sorry to correct my witness' answer.

17 A. That's fine. I wasn't real sure.

18 MR. CHILDS: Is that Larry?

19 MR. ROGERS: No, that's Greg.

20 MR. CHILDS: Give me those numbers.

21 MR. ROGERS: The base force number for
22 Middletown Works, based on the current number
23 of departments that are operating, is 3114.
24 And the current hourly employment is what,
25 2700?

1 said earlier the only way an applicant could get an
2 application was to get it through the Ohio Bureau.

3 A. We don't take applications at our
4 facility. Maybe I wasn't clear on that. They can't
5 come to our employment office and get an application.

6 Q. I notice this guy, this professional
7 recruiter, is this the Mike Lehman we were talking
8 about earlier that was involved apparently, at least,
9 in the recruiting aspect during this period of time
10 in 2001?

11 A. Mike would have been doing the
12 professional recruiting. If you'll notice, there's
13 two different or -- you know, there's several
14 different jobs involved here. Under management,
15 those are what we call professional jobs. We would
16 have been looking for engineers, electronics type
17 people. Then, of course, under the engineering we're
18 looking for electrical, mechanical, metallurgists,
19 engineers.

20 So the resumes for the management jobs,
21 yes, could be sent directly to Mike Lehman.

22 Q. Now, this has hourly jobs here at the
23 bottom of this page or this ad that says boiler
24 operator.

25 A. Yes.

1 Q. Now, would that have been sent to Mike
2 Lehman, too?

3 A. If it was sent to Mike Lehman, then he
4 would have given it to -- I'm talking about a resume.
5 He would have given it to whoever was doing the
6 hourly hiring at that point in time. Mike would not
7 have been doing the recruiting.

8 Q. Miss Hicks or Ms. White?

9 A. Yes.

10 MR. CHILDS: I think it's time for us to
11 break over to the other -- for the conference
12 call, Greg.

13 MR. ROGERS: Okay.

14 MR. CHILDS: We're going to get off and
15 call in on this number. Once it's done we'll
16 hook back up on this same line.

17 MR. ROGERS: Very good.

18 (A recess was taken from 2:03 to 2:41.)

19 Q. We were looking at Bates number AKX1213.
20 Notice, if you'll look, Ms. Short, there's also an
21 reference to an AK steel job fair.

22 A. Yes, sir.

23 Q. That is for which jobs, all of them or
24 just the engineering or management or --

25 A. Well, let me -- the majority of the ad is

1 also have they can get their applications from the
2 Ohio Bureau of Employment, particularly Cincinnati,
3 Hamilton, Middletown, Lebanon and Dayton.

4 A. Yes.

5 Q. And it also refers to the professional
6 recruiter again, which is this Mike Lehman, but they
7 could not apply to him to get that application
8 though, is that correct?

9 A. No, sir.

10 Q. And if they called him, looking at this ad
11 because there's really not any differentiation, what
12 would he tell them as far as getting application?

13 A. That they had to go to the Bureau of
14 Employment Services in order to get an application
15 for hourly employment.

16 Q. The same would be true of anybody who
17 walked up to your plant during this period of time
18 and said they wanted an application?

19 A. Yes, sir.

20 Q. If you have walk-ins out of the street who
21 wanted to be hired for hourly jobs, were they
22 referred to a particular individual or have they been
23 since June of 2000?

24 A. They would be referred to the Bureau of
25 Employment Services.

1 watched them do it, no, I did not.

2 Q. So as a practical matter you don't know
3 for a fact that that, in fact, occurred; you just
4 know you told them to do so?

5 A. I know I told them to do so, yes, and they
6 generally followed instructions.

7 Q. Those individuals that Ms. White and
8 Ms. Hicks screened out as part of their initial
9 screening, were those applications forwarded to you
10 or what happened to those applications?

11 A. No, they were not forwarded to me.

12 Q. Did you do anything to check and -- let me
13 strike that.

14 Would you have any documentation that
15 would reflect applications that were screened by
16 Ms. White and Ms. Hicks before they were referred to
17 you?

18 A. No.

19 Q. Are any notices sent to any of these
20 applications at the point in which they are screened?

21 A. Are any notices sent to these
22 applications, is that what you said?

23 Q. Are any letters sent to the applicants
24 when they're screened, saying you've been screened
25 out and why?

1 A. No.

2 Q. If an application or an applicant is
3 screened at the first step of the process by
4 Ms. White and Ms. Hicks, are those screenings
5 recorded anywhere?

6 A. I don't know if they are or not, sir.

7 Q. All right. Any of those that you screen,
8 you indicated this morning that you pulled those
9 applications out and sent them back to Tracy and
10 Jessica, is that correct?

11 A. Yes.

12 Q. With instructions to do what with them?

13 A. I would have written a note as to they
14 would be -- they are to be taken out of the process.

15 Q. Would the note be attached to the
16 application?

17 A. Yes.

18 Q. And it would state which of the reasons
19 why you took them out of the process?

20 A. I may have stated that and I may not have.

21 Q. Okay. So you could have indicated the
22 reason or just the fact that they were taken out
23 without a reason?

24 A. Yes.

25 Q. Do you know whether the majority of those

1 that you screened out would have the reason at all or
2 not?

3 A. Probably not.

4 Q. Do you know how many of these individuals
5 you have screened out at this first step? Do you
6 screen a large majority?

7 A. No, sir.

8 Q. And I assume, just as Ms. White and
9 Ms. Hicks would not notify an applicant when they
10 screened them out, they would not notify the
11 applicant that you had screened them out either?

12 A. No, sir.

13 Q. The next step we have is the test.
14 Nothing else is done from this group of applications
15 after Ms. White and Ms. Hicks have screened them and
16 you've screened them, correct?

17 A. That's correct.

18 Q. The test is then administered one day a
19 week and on the weekends, is that correct?

20 A. Usually it was administered one day a week
21 and Saturday mornings.

22 Q. And there is no -- I believe you said this
23 morning, no written protocol that has been utilized
24 by AK Steel from January of 2000 to the present,
25 telling Ms. White and Ms. Hicks how they are to get

1 A. There was no time frame, no.

2 Q. On occasions, then, you should see notes
3 indicating that -- from Ms. White and Ms. Hicks that
4 they're continuing to try to locate individuals to
5 come in for the test, correct?

6 A. They would continue to try to reach the
7 candidate with the information they had provided for
8 us.

9 In other words, they would provide it on
10 the application, a telephone number. It asks where
11 you can be notified. They would have continued to
12 try to reach them.

13 Q. Did they undertake -- did you ever retain
14 an individual to get updated phone numbers for your
15 applicants?

16 A. No, sir. Again, I had one person doing
17 all this recruiting effort. No, we did not have the
18 luxury of doing that.

19 Q. But there are temporary employment
20 services, just like your doctors, who provide
21 individuals who can update telephone numbers.

22 Did AK Steel ever undertake to hire such
23 an individual to update phone numbers on its
24 applications for production employee positions?

25 A. No, sir.

1 Q. Do you know how many employees are -- or
2 percentage of employees that are screened out because
3 they do not take the test?

4 A. No, sir, I don't.

5 Q. Have you ever seen any analysis conducted
6 by AK Steel in any manner describing the number of
7 employees that are taken out because they don't take
8 the test?

9 A. No, sir, I haven't.

10 Q. Do you know what percentage of your
11 employee work force are -- your applicant work force,
12 I'm sorry, are eliminated because they flunked the
13 test?

14 A. No, I don't know what percent that is.

15 Q. Have you ever seen any analysis that would
16 tell you whether blacks -- African Americans were
17 flunking the test at a higher percentage than the
18 whites?

19 A. I'm sorry, say that again.

20 Q. Have you seen any analysis which would
21 indicate African Americans are flunking this test at
22 a higher percentage than whites?

23 A. I'm thinking about that, if I've ever seen
24 an analysis of that type. I've seen -- we've done
25 analysis on our testing but I can't remember

1 that either Ms. White or Ms. Hicks would use and
2 another specific set of questions which the manager
3 would use?

4 A. No, sir.

5 Q. They can make up their own questions, they
6 can be as different as they would like to use during
7 this process, correct?

8 A. They normally go down the evaluation
9 areas, the definitions, and they talk through all
10 those various areas. And the questions may come from
11 the candidate's response to those.

12 Q. Right. But there is no -- do you
13 understand what the term "structured interview
14 process" means?

15 A. Yes.

16 Q. Is there a structured interview process?

17 A. No, it's not structured by asking specific
18 questions of all candidates, no.

19 Q. It has not been designed by any kind of a
20 consultant or expert for AK Steel, correct?

21 A. Not that I'm aware of.

22 Q. And the criteria that you are using here
23 for this evaluation form, safety, work
24 drive/initiative, productivity, reliability, work
25 experience, communication, education and training, AK

1 fit/overall suitability, have those criteria been
2 validated pursuant to the uniform guidelines?

3 A. No, sir.

4 Q. And hold on. Why don't we take a break
5 for a few minutes? We've been going about an hour
6 ten minutes, I need to take a break.

7 (A recess was taken from 3:47 to 4:01.)

8 Q. Let's try to move on to the next step in
9 the process. I've got a couple of just kind of
10 follow-up questions so I can try to get there.

11 Going back, you do not use, do you,
12 Ms. Short, ads in anything other than in newspapers,
13 is that correct?

14 A. I'm thinking about your question. The
15 only other thing that I can remember that we did, and
16 it was several years ago, we posted our ads at one of
17 the local movie theaters.

18 But other than that -- and we may have
19 done some posting on Internet sites. But that would
20 be more for professional type of jobs.

21 Q. Posted on the Internet for professional,
22 laborer positions --

23 A. Right, the majority of our ads would be
24 newspaper.

25 Q. Did you do a production/laborer job ad in

1 the local movie theater?

2 A. Yes, and that was many years ago.

3 Q. Before 2000 or sooner?

4 A. Yes, it would have been before 2000.

5 Q. Why did you use a local movie theater for
6 that?

7 A. Because they had called us and they were
8 promoting this and we were trying to get, you know, a
9 lot of candidates into the process, so we thought
10 we'd try it.

11 Q. You don't remember what year?

12 A. No, I don't.

13 Q. Okay. When we talked about the bureau
14 getting all these applications for Middletown, I
15 think you indicated that they screened but I didn't
16 ask you what they screened for.

17 What does the local bureau -- it's late, I
18 may have asked you, if I did I apologize. What did
19 they screen for?

20 A. Again, they would be looking for, you
21 know, whether or not they were high school graduates,
22 whether they had manufacturing experience, whether or
23 not they had convictions. Same type of criteria.

24 Q. The same type of criteria that you,
25 Ms. Hicks and Ms. White also screened for when the

1 applications are received at AK Steel, is that
2 correct?

3 A. Yes.

4 Q. Is it your testimony that the Ohio bureau,
5 at the initial receipt of the application, screened
6 out individuals who indicated on the application that
7 they did not have two years of manufacturing
8 experience?

9 A. I'm sorry, we didn't hear the first part
10 of your question. We were moving the telephone.

11 Q. Is it your testimony that the Ohio bureau
12 would screen out, at the first step of this
13 application process, individuals who on their
14 application indicated they did not have two years of
15 manufacturing experience?

16 A. That's my understanding, yes.

17 Q. What happened to those -- are those
18 applications, then, not sent by the bureau on to AK
19 Steel?

20 A. That's my understanding, yes, they do not
21 refer those to us.

22 Q. How many are in that group, do you know?

23 A. I don't know.

24 Q. Has anybody at AK Steel done a follow-up
25 with the bureau to determine the racial composition

1 of those applications that are never forwarded to AK
2 Steel?

3 A. No, sir.

4 Q. Do you have any judgment as to the total
5 number that are not referred to AK Steel by the
6 bureau or the total number that have not been
7 referred by AK Steel -- I'm sorry, strike that. It's
8 late.

9 Do you have any idea of the total number
10 of applications that have not been referred by the
11 bureau to AK Steel since January of 2000?

12 A. No, sir, I don't know.

13 Q. And the company has not done any kind
14 of -- who is the contact person at the Ohio bureau?

15 A. When I was at Middletown Works it was
16 Chris Haberly.

17 Q. Spell it.

18 A. H-a-b-e-r-l-y, I believe.

19 Q. Okay. Where did Mr. Haberly work?

20 A. Ms. Haberly.

21 Q. Oh. Where did Ms. Haberly work?

22 A. The Hamilton bureau.

23 Q. Were all the applications that were
24 received at these various locations around the state
25 all forwarded to the Hamilton location?

1 A. It's my understanding that the bureaus at
2 Dayton and Cincinnati would forward the applications
3 to Chris at Hamilton and then she would bring them to
4 AK.

5 Q. Nobody has gone beyond -- behind that
6 process to make sure that all applications that are
7 getting submitted in Cincinnati or Dayton are making
8 it to the Hamilton bureau, is that correct?

9 A. It's my understanding she would check with
10 the other bureaus.

11 Q. How would she do that according to your
12 knowledge?

13 A. Telephone call to the other bureaus to see
14 if they had applications.

15 Q. She did nothing to be sure that every
16 application that was filed by an applicant in
17 Cincinnati was, in fact, referred to her at Hamilton,
18 correct?

19 A. I don't know whether she did or not.

20 Q. Okay. Thank you. Was the prescreening
21 done in Cincinnati on these applications or was the
22 prescreening not done until it got to Hamilton?

23 A. I don't know the answer to that question,
24 sir.

25 Q. Okay. What is Mr. Haberly's race --

1 Ms. Haberly's race, excuse me?

2 A. She's a Caucasian female.

3 Q. Do you know of any African Americans
4 that's been involved with the Ohio bureaus in the
5 screening process?

6 A. Oh, I have no idea.

7 Q. You don't know what types of records, if
8 any, that the Ohio bureau keeps regarding those that
9 they screened out?

10 A. No, sir, I don't.

11 Q. Or any kind of records that they would get
12 showing the total number of applications that are
13 taken in Cincinnati are, in fact, forwarded to
14 Hamilton?

15 A. No, I don't have any idea.

16 Q. But to your knowledge there would be no
17 screening in Cincinnati before the forwarding of the
18 applications to Chris Haberly in Hamilton?

19 A. I don't know.

20 Q. They could screen, you don't know one way
21 or the other?

22 A. Yeah, I don't know. I don't know the
23 answer to that question.

24 Q. Has AK Steel ever done any analysis of the
25 application process to see if the Ohio bureau was

1 screening out a disproportionate number of African
2 American applicants?

3 A. I never did anything at Middletown Works.

4 Q. Do you know anything that was done by any
5 part of the company to investigate that process?

6 A. I don't know.

7 Q. How would the applications get from the
8 bureau office at Hamilton to AK Steel?

9 A. It's my understanding that the majority of
10 the time Ms. Haberly lived around the Middletown area
11 and she would bring them to the employment office on
12 her way home.

13 Q. And give them either to Ms. White or
14 Ms. Hicks?

15 A. Yes.

16 Q. And that would be every day or once a week
17 or what?

18 A. It would vary, you know, depending upon
19 the number of people who had been to the bureau.

20 You know, sometimes Ms. White or Ms. Hicks
21 would go to the bureau and pick them up. So, you
22 know, it would vary as far as how -- you know, how
23 they got them at AK.

24 Q. Are you aware of any documentation that
25 was required to be signed by Ms. White or Ms. Hicks

1 upon receipt of these applications?

2 A. No, I don't know if they signed anything
3 or not.

4 Q. Had you ever seen any documentation that
5 would show -- that they would have signed showing the
6 number of applications given to them by the Hamilton
7 bureau?

8 A. No, I've never seen anything like that.

9 Q. Is the same test used at Middletown as is
10 used at Ashland, the same written test?

11 A. I think it is but I really and truly do
12 not know.

13 Q. We know they're both prepared by
14 Dr. Gibson?

15 A. Yes.

16 Q. Okay. Do you know if the cut-off score
17 for the tests are the same?

18 A. I don't know.

19 Q. Are there tests used -- written tests used
20 at any other facilities of AK Steel other than the
21 Ashland and Middletown facilities?

22 A. I don't know the answer to that question.

23 Q. You're the head of HR, you don't know
24 whether there are tests used at any other location
25 other than Middletown and Ashland?

1 A. I think we've discussed them all.

2 Q. Okay. After the background check, what
3 kind of notations are made by Ms. Hicks and Ms. White
4 regarding the reasons for removal?

5 A. It would -- well, if it's a falsification,
6 they would simply say it's a falsification.

7 Q. In the applicant flow or on the
8 application or where?

9 A. It would be -- well, I would say on the
10 applicant flow but I'm not totally sure of that.

11 Q. Do you know if, in fact, all
12 falsifications are noted on the applicant flow
13 information?

14 A. No, sir, I do not know that for a fact.

15 Q. Do you know if any of the problems either
16 with crime, work history, DMV was actually recorded
17 on the applicant flow information by Ms. White or
18 Ms. Hicks?

19 A. No, I don't know.

20 Q. After the background check is done,
21 assuming an employee is still there, are they made a
22 conditional offer of employment?

23 A. Yes, sir.

24 Q. Then what's the next step of the process?

25 A. The next step would be that Ms. Hicks or